

OCT 23 2018



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

7015 0640 0001 1122 2066

Dean Allred, President
Pool Water Products, Inc.
17872 Mitchell Ste 250
Irvine, CA 92614

Re: STOP SALE, USE, OR REMOVAL ORDER
Pool Water Products, Inc.

Dear Mr. Allred:

Enclosed is a Stop Sale, Use, or Removal Order ("Order") issued by the U.S. Environmental Protection Agency Region 9 (EPA) to Pool Water Products, Inc., concerning all pesticide products bearing the name and registration number, **ALL CLEAR 3" Jumbo Chlorinating Tablets** produced in the People's Republic of China for Aqua TRI / EPA Reg # 9215-11 and any alternate brand names. **The order is effective immediately upon receipt.**

Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136k(a), authorizes the EPA to issue an order prohibiting the sale, use, or removal of any pesticide by any person who owns, controls, or has custody of such pesticide whenever there is reason to believe on the basis of inspection that such pesticide is in violation of any provision of FIFRA or that such pesticide has been or is intended to be distributed or sold in violation of FIFRA. As explained further in the enclosed Order, Pool Water Products, Inc. has been and is producing, distributing, or selling, misbranded and unregistered pesticide products in violation of FIFRA.

EPA developed an information sheet entitled "U.S. EPA Small Business Resource Information Sheet" to help small businesses understand federal and state environmental laws and rights under the Small Business Regulatory Enforcement Fairness Act. The information sheet is enclosed.

If you have any questions about this matter, please contact Scott McWhorter, Enforcement Case Officer, at 415-972-3584. For any legal matters concerning this matter, please contact David H. Kim, Assistant Regional Counsel, at 415-972-3882.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Berg".

Elizabeth Berg
Acting Assistant Director
Water and Pesticides Branch, Enforcement Division
U.S. Environmental Protection Agency, Region IX

Enclosure

CC: Mr. Charles Schadowsky, Manager, Pool Water Products, Inc. 20810 N 25th Place, Phoenix, AZ 85050

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CA 94105**

<i>In the Matter of:</i>)	ORDER
)	SECTION 13(a)
Pool Water Products, Inc.)	
17872 Mitchell North, Suite 250)	FEDERAL INSECTICIDE, FUNGICIDE
Irvine, CA 92614)	AND RODENTICIDE ACT
)	
Respondent)	Docket No. FIFRA-09-2019-4004
)	

I. AUTHORITIES

1. The United States Environmental Protection Agency, Region IX, ("EPA") issues this Stop Sale, Use, or Removal Order ("Order") pursuant to the authority vested in the Administrator of the EPA by section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), as amended, 7 U.S.C. § 136k(a), which authorizes the Administrator of the EPA to issue orders prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe the pesticide or device is in violation of any provision of FIFRA, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration has been cancelled by a final order.

2. This authority has been delegated from the EPA Administrator to the Director of the Enforcement Division, EPA, Region IX. In turn, the Director of the Enforcement Division, EPA, Region IX, redelegated this authority to the Assistant Director for Water and Pesticides Branch of the Enforcement Division, EPA, Region IX.

3. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states, "it shall be unlawful for any person in any State to distribute or sell to any person . . . any pesticide that is not registered . . . or whose registration has been suspended or cancelled."

4. Section 12(a)(2)(1) of FIFRA, 7 U.S.C. § 136j(a)(2)(1), states that it shall be unlawful for any person to violate any order issued under section 13 of FIFRA.

5. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a "person" as "any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not."

6. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines “pest,” in part, as any “form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 25(c)(1).” Pursuant to the authority in section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1), the Administrator declared that a pest is “[a]ny fungus, bacterium, virus, prion, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs . . . and cosmetics. . . .” 40 C.F.R. § 152.5.
7. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide” in part, as any “substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”
8. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines “distribute or sell” as “to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.”

II. BACKGROUND

9. Pool Water Products (“PWP”) is a corporation organized under the laws of the State of California but is also authorized to do business in the State of Arizona.
10. PWP distributes and sells pool cleaning products to customers located throughout the greater Phoenix area in Arizona.
11. PWP owns and/or operates a facility (the “Facility”) located at 20810 N. 25th Place, Phoenix, Arizona that stores and distributes or sells various pool cleaning products.
12. Heze Huayi Chemical Company, Ltd., (“Heze Huayi”) manufactures “ALL CLEAR 3” Jumbo Chlorinating Tablets” at its facility in People’s Republic of China for Aqua TRI, a California corporation located at 17872 Mitchell Road North, Irvine, California.
13. “ALL CLEAR 3” Jumbo Chlorinating Tablets” are used to control or kill bacteria in swimming pools.
14. Bacteria are “pests” within the meaning of section 2(t) of FIFRA, 7 U.S.C. § 136(t).
15. “ALL CLEAR 3” Jumbo Chlorinating Tablets” are “pesticides” within the meaning of section 2(u) of FIFRA, 7 U.S.C. § 136(u).

16. On or about March 28, 2017, Aqua TRI registered the pesticide "ALL CLEAR 3" Jumbo Chlorinating Tablets" with EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a, under EPA Registration Number 9215-11.
17. In the statement submitted for the registration of "ALL CLEAR 3" Jumbo Chlorinating Tablets" with EPA, Aqua TRI stated that the registered "ALL CLEAR 3" Jumbo Chlorinating Tablets" would be produced solely in the United States.

III. BASIS FOR ORDER

18. On or about August 15, 2018, Purestar Corporation ("Purestar"), which is located at 3104 Creekside Village Drive, NW, Kennesaw, Georgia, imported 768 50-pound pails of the "ALL CLEAR 3" Jumbo Chlorinating Tablets" to the United States from People's Republic of China that arrived at the Port of Los Angeles in California in a single shipment.
19. According to the Notice of Arrival (#AWJ-0186339-3) that Purestar filed with the U.S. Department of Homeland Security and EPA, Respondent stated that the single shipment of the registered "ALL CLEAR 3" Jumbo Chlorinating Tablets" that Respondent imported to the United States from People's Republic of China on or about August 15, 2018, was produced by Heze Huayi in People's Republic of China.
20. The single shipment of the "ALL CLEAR 3" Jumbo Chlorinating Tablets" that was produced in People's Republic of China that Purestar imported to the United States from People's Republic of China on or about August 15, 2018, constituted an unregistered pesticide because Aqua TRI's registration of the "ALL CLEAR 3" Jumbo Chlorinating Tablets" under FIFRA § 3 is valid only for the pesticide products produced in the United States.
21. On or about August 16, 2018, Purestar arranged for transportation of the August 15, 2018 shipment of the "ALL CLEAR 3" Jumbo Chlorinating Tablets" from the Port of Los Angeles to the Facility.
22. On or about August 30, 2018, inspectors from the Arizona Department of Agriculture ("ADA") inspected the Facility.
23. During the August 30, 2018 inspection, the ADA inspectors observed 3,204 25-pound pails and 3,453 50-pound pails of the "ALL CLEAR 3" Jumbo Chlorinating Tablets" at the Facility.
24. During the August 30, 2018 inspection, the ADA inspectors determined that 3,204 25-pound pails and 3,453 50-pound pails of the "ALL CLEAR 3" Jumbo Chlorinating Tablets" at the Facility included not only the August 16, 2018 shipment of the 768 50-pound pails by Purestar but other import shipments by Purestar and/or other distributors.

25. During the August 30, 2018 inspection, the ADA inspectors determined that 3,204 25-pound pails and 3,453 50-pound pails of the "ALL CLEAR 3" Jumbo Chlorinating Tablets" at the Facility were manufactured by Heze Huayi and imported into the United States from People's Republic of China.
26. 3,204 25-pound pails and 3,453 50-pound pails of the "ALL CLEAR 3" Jumbo Chlorinating Tablets" observed at the Facility on or about August 30, 2018 constituted unregistered pesticides because Aqua TRI's registration of the "ALL CLEAR 3" Jumbo Chlorinating Tablets" under FIFRA § 3 is valid only for the pesticide products produced in the United States.

IV. ORDER

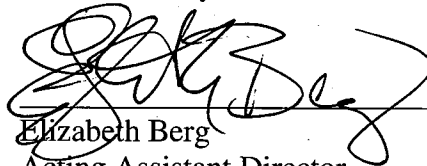
27. Pursuant to the authority in section 13(a) of FIFRA, 7 U.S.C. § 136k(a), EPA hereby orders PWP to **immediately stop** the sale, use or removal of "ALL CLEAR 3" Jumbo Chlorinating Tablets" under its ownership, control, or custody, wherever such products are located, except in accordance with the provisions of this Order.
28. The products described in paragraph 27 shall not be used, sold, offered for sale, held for sale, shipped, delivered for shipment, received, or having so received, shall not be delivered, offered for delivery, moved or removed for disposal from the Facility for any reason, unless approved by EPA in writing. Any proposal for movement of the products so described shall be submitted to Scott McWhorter, Pesticides Branch, Enforcement Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and shall include:
 - A. The purpose for which the movement is being requested;
 - B. An accounting of the quantities of the product to be moved, including location(s), quantities from each location, and container size for the products to be moved; and
 - C. The destination location to which the product will be moved.
29. Within 10 days of receipt of this Order, PWP shall submit to EPA an accounting of all products subject to this Order. The report shall be submitted to Scott McWhorter, Pesticides Branch, Enforcement Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and shall include:
 - A. A description of all existing product inventory at the Facility, including quantities, and container size. This information must be updated on a monthly basis for the following six months, and thereafter only upon further change to the information;
 - B. A complete list of PWP's distributors and direct-sale customers and records of all sales and distributions made to such entities within the past twelve (12) months; and

30. Any agent, owner, or operator of PWP violating the terms or provisions of this Order may subject the violator to civil or criminal penalties as prescribed in section 14 of FIFRA, 7 U.S.C. § 136l.
31. The issuance of this Order shall not constitute a waiver by EPA of its remedies, either judicial or administrative, under FIFRA or any other federal environmental law to address this matter or any other matters or unlawful acts not specified in this Order.
32. This Order shall be **effective immediately** upon receipt by PWP or any agents of PWP.
33. This Order shall remain in effect unless and until revoked, terminated, suspended, or modified in writing by EPA.
34. PWP may seek federal judicial review of this Order pursuant to Section 16 of FIFRA, 7 U.S.C. § 136n.
35. If any provision or provisions of this Order is/are subsequently held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and they shall remain in full force and effect.

V. OTHER MATTERS

36. For additional information about this Order, please contact Scott McWhorter, Enforcement Case Officer, at 415-972-3584. For any legal matters concerning this matter, please contact David H. Kim, Enforcement Attorney, at 415-972-3882.

10/23/2018
DATE


Elizabeth Berg
Acting Assistant Director
Water and Pesticides Branch
Enforcement Division
U.S. Environmental Protection Agency,
Region IX

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.